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Express Mail No. EL 888996956 US  
Attorney Docket No. 1067.401

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application Serial No. 76313593  
Filed on September 18, 2001  
For the mark Yuen Energetics  
Published in the *Official Gazette* on April 29, 2003

06-03-2003

U.S. Patent & TMO/TM Mail Rpt Dt. #22

KAM YUEN

Opposer,  
v.

MARNIE GREENBERG,

Applicant.

Opposition No.:

Box TTAB  
Fee  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

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**NOTICE OF OPPOSITION**

Kam Yuen ("Opposer"), having his address at 6201 Valley Circle Boulevard, Woodland Hills, California 91367 believes he will be damaged by Marnie Greenberg's ("Applicant") intent to use application for trademark registration of the mark YUEN ENERGETICS ("Applicant's Mark"), shown in Serial No. 76313593, and hereby opposes the same.

As grounds of opposition, it is alleged that:

1. The Applicant has requested registration based on her intent to use the mark YUEN ENERGETICS for:

- (a) "cosmetics, namely massage oils" in International Class 003;
- (b) "alternative and homeopathic remedies to enhance and support the functions of the central nervous system" in International Class 005;
- (c) "DVDs and video tapes featuring demonstrations and lectures on central nervous system corrections; DVDs and video tapes featuring fitness instruction; CDs and audio tapes featuring meditations and educational content related to central nervous system corrections" in International Class 009;
- (d) "printed instructional manuals in the field of central nervous system corrections" in International Class 016;
- (d) "clothing, namely t-shirts, sweatshirts, pants and hats" in International Class 025; and
- (f) "educational services, namely conducting classes, seminars and courses in the field of alternative health care; training in the field of alternative health care; personal coaching services in the field of alternative health care" in International Class 041.

The application was filed on September 18, 2001 and was published in the *Official Gazette* on April 29, 2003.

2. Opposer has used the trademark and service mark YUEN ENERGETICS in regard to services and goods sold in interstate commerce during seminars he conducted from approximately September 2000 through November 2002. Applicant is therefore the first user of the YUEN ENERGETIC'S mark. During this period of time, Applicant served as the Opposer's seminar

director and therefore was aware of this use. Opposer has since terminated his relationship with Applicant.

3. Opposer's use of the YUEN ENGERGETICS mark has been valid and continuous since the date of first use within the United States and has not been abandoned. The mark is symbolic of the good will and consumer recognition built up by Opposer through time and effort in advertising and promotion.

4. Applicant's intent to use application, Serial No. 76313593, was filed on September 19, 2001, which, for the purposes of determining prior use, is the equivalent of a first use date and a date of first use in interstate commerce for the goods and services on that date.

5. Applicant's Mark is identical to Opposer's Mark and her use in relation to certain goods and services would be identical to that of Opposer. Such goods and services are sold within the same channels of trade to the same class of purchasers for substantially the same use and function. Accordingly, Applicant's use of the mark, YUEN ENERGETICS in association with certain of her goods and services could lead to confusion and deception within the purchasing public as to the origin of all such goods or services bearing Applicant's Mark.

6. Applicant's Mark also consists of his surname and the word "energetics." Energetics describes the body of healing techniques that Opposer has developed, teaches and demonstrates at his seminars. Opposer has not provided his written consent to this use. Accordingly, the application violates the proscription of Applicant the Trademark Act against registration of a mark that consists of or comprises a name, portrait, or signature identifying a particular living individual except by his written consent.

7. If the Applicant is permitted to register the YUEN ENERGETICS mark for her

goods or services, as specified in the application herein opposed, confusion in trade resulting in damage and injury to the Opposer could be caused and could result by reason of Applicant's use of a mark identical to Opposer's mark. Individuals or entities familiar with Opposer's Mark will likely buy Applicant's goods and services, which could result in the loss of sales to Opposer. Furthermore, any defect, objection or fault found with Applicant's products marketed under Applicant's Mark could reflect upon and seriously injure the reputation which the Opposer has established for his products under his YUEN ENERGETICS mark.

8. If the Applicant is permitted to retain the application sought to be opposed and a registration is granted, a cloud will be placed on Opposer's right to continue use of his YUEN ENERGETICS mark, all to the injury of Opposer.

WHEREFORE, Opposer prays that said application Serial No. 76313593 be rejected, that no registration be issued thereon to the Applicant, that this opposition be sustained in favor of Opposer.

Opposer hereby appoints Thomas T. Chan; Ronald M. St. Marie; Paul N. Tauger and Brett L. Halperin, members of the CHAN LAW GROUP LC, with offices at 1055 West Seventh Street, Suite 1880, Los Angeles, California 90017-2544, as his attorneys to prosecute this opposition proceeding and to transact all business in and before the United States Patent and Trademark Office in connection herewith.

**Please address all correspondence to:**

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Please charge Deposit Account No.: 03-1366.

Respectfully submitted,  
CHAN LAW GROUP LC

Dated: 7/2/03

By: 

Ronald M. St. Marie  
Attorneys for Opposer  
Kam Yuen

**CERTIFICATE OF MAILING - EXPRESS MAIL for Trademark**

Attorney Docket No.: 1067.401

Attorney: Ronald M. St. Marie

In the Matter of Trademark Application Serial No. 76313593

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Opposer: Kam Yuen

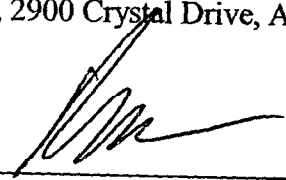
Opposer's Mark: YUEN ENERGETICS

Registration No.:

Document: NOTICE OF OPPOSITION

Express Mail mailing label number: EL 888996956 US

I hereby certify that the above paper and fee are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service in an envelope addressed to Box TTAB Fee, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on **June 2, 2003**

  
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Ronald M. St. Marie